

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

CLYDE W. STUART,  
TDCJ No. 207840,

Plaintiff,

v.

GARY JOHNSON, *et al.*,

Defendants.

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CIVIL ACTION H-05-2474

**MEMORANDUM ON DISMISSAL**

Plaintiff, Clyde W. Stuart, filed this civil rights complaint. Plaintiff is incarcerated in the Texas Department of Criminal Justice. Plaintiff moves to proceed as a pauper under 28 U.S.C. § 1915.


A national prisoner litigation index shows that Plaintiff has filed twenty other lawsuits in the federal district courts in Texas, including transfers. The index shows that three of these lawsuits and one appeal were dismissed as frivolous, malicious, or for failure to state a claim on which relief may be granted. *See Stuart v. Scott*, Court of Appeals No. 94-10421(5th Cir.); *Stuart v. Frazier, et al.*, Civil Action No. 3:01cv2629 (N.D. Tex.); *Stuart v. Cockrell, et al.*, Civil Action No. 4:03cv1028 (S.D.Tex.); and *Stuart v. Sheriff of Dallas County, et al.*, Civil Action No. 3:01cv2129

(N.D. Tex.). Plaintiff's complaint in *Stuart v. TDCJ-ID*, Civil Action No. 3:01cv2252 (N.D. Tex.) was also dismissed as frivolous, malicious, or for failure to state a claim on which relief may be granted. When Plaintiff filed each of these actions, he was incarcerated in the TDCJ-ID or a detention facility. Each of these cases was dismissed before Plaintiff filed this case.

Under 28 U.S.C. § 1915(g), a prisoner is not allowed to bring a civil action *in forma pauperis* in federal court if, on three or more prior occasions, while incarcerated, he brought an action or appeal which was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, unless he is under imminent danger of serious physical injury. Plaintiff's pleadings here do not show such danger.

It is, therefore, ORDERED that this complaint filed by Clyde W. Stuart, TDCJ No. 207840, be DISMISSED under 28 U.S.C. § 1915(g). Plaintiff's motion to proceed *in forma pauperis* [Docket Entry No. 2] is DENIED.

SIGNED at Houston, Texas, on this 27<sup>th</sup> day of July, 2005.



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DAVID HITTNER  
United States District Judge